

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

JARED L. DAVIS, and
LINDSEY R. DAVIS,

Plaintiffs,

v.

Case No. 21-CV-411-GKF-JFJ

GEORGINA MORGAN or her unknown
heirs, successors, and assigns;
MARK MATHESON or his unknown heirs,
successors, and assigns;
RH OPERATING COMPANY;
M.P.G. CO.;
LA-CRUCÉ INC.;
SOONER TREND PETROLEUM, INC.;
AMVEST OSAGE, INC.;
TEC RESOURCES, LLC;
QUEST CHEROKEE, LLC;
CITIBANK, N.A.;
SHIRLEY DIONNE GARRETT WEBSTER;
M. G. McCASLIN or his unknown heirs,
successors, and assigns;
L. S. NEELY or her unknown heirs,
successors, and assigns;
R. D. MEAD or his unknown heirs,
successors, and assigns;
BERT GILMER or his unknown heirs,
successors, and assigns;
CRAIG NATURAL RESOURCES, INC.;
RH ENERGY, LTD.;
RH ENERGY, LTD. II;
DELMAR GENE GARRETT or his unknown
heirs, successors, and assigns;
IRIS CAMP McNEER or her unknown
heirs, successors, and assigns;
WILLIAM EARL PIERCE or his unknown
heirs, successors, and assigns,

Defendants.

OPINION AND ORDER

On October 26, 2020, plaintiffs Jared L. Davis and Lindsey R. Davis filed a quiet title action in the District Court of Nowata County, Oklahoma, Case No. CV-2020-37. The quiet title action involved two tracts of land located in Nowata County.

On February 1, 2021, Dwayne Garrett, acting as attorney-in-fact for defendant Shirley Dionne Garrett Webster¹, filed a “Motion for Notice of removal under 18 USC Sec. 1446B in case No. CV 2020-37 Nowata County Complaint under 18 USC 241 B” in the United States District Court for the Eastern District of Oklahoma. The federal court clerk in that district interpreted the filing as a Notice of Removal and opened Case No. 21-cv-29-SPS as a removed action.

The attempted removal suffered from several defects. For one, Nowata County lies in the Northern District of Oklahoma, not the Eastern. Most importantly here, Mr. Garrett failed to file a copy of his notice with the clerk of the State court as required by 28 U.S.C. § 1446(d).² Had he done so, the State court could have proceeded no further until the case was remanded. *Id.*; *Fenton v. Dudley*, 761 F.3d 770, 772 (7th Cir. 2014). However, under the clear terms of § 1446(d), the removal never took effect, and the State court action proceeded. On May 10, 2021, the Davises

¹ The Court notes that Ms. Webster and Mr. Garrett are subject to filing restrictions in this district, and neither are permitted to appear in this Court unless they are represented by an attorney or unless they have received prior authorization from the Court to enter a *pro se* appearance. See General Order 18-05, *In re: Shirley Dionne Garrett a/k/a Shirley Garrett and/or Shirley D. Webster*; and *Dwayne Garrett v. State of Oklahoma*, et al., Case No. 00-C-195-E, at [Doc.33]. However, this case was transferred by another federal district court, and the Court will not now invoke the filing restrictions against Ms. Webster and Mr. Garrett as a basis for dismissal.

² Federal courts may take judicial notice of state district court docket sheets, and proceedings in other courts that have direct relation to matters in issue. *Stack v. McCotter*, 79 Fed.Appx. 383, 391 (10th Cir. 2003); *St. Louis Baptist Temple, Inc. v. Fed. Deposit Ins. Corp.*, 605 F.2d 1169, 1172 (10th Cir. 1979).


moved for default judgment, and, on May 19, the State court granted the motion and entered a default judgment.

On September 23, 2021, the U.S. District Court for the Eastern District of Oklahoma transferred Case No. 21-cv-29-SPS to this court pursuant to 28 U.S.C. § 1406(a) because Nowata County is within the jurisdiction of this district court.

Because Mr. Garrett, acting as attorney-in-fact for Ms. Webster, failed to file a copy of the notice of removal with the clerk of the State court as required by 28 U.S.C. § 1446(d), he did not effectively remove the case, and this case must therefore be dismissed.

WHEREFORE, this case is dismissed. A separate judgment shall be entered contemporaneously.

IT IS SO ORDERED this 27th day of September, 2021.


GREGORY K. FRIZZELL
UNITED STATES DISTRICT JUDGE